IN THE HIGH COURT OF JUDICATURE OF BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 5994 of 2004

United India Insurance Co.Ltd. .. Petitioner

versus

Rajesh Jagdish Tiwari & anr. .. Respondents

...

Mr.N.M. Godbole for the petitoner.

Mr.Dnyaneshwar Deshmukh for respondent no.1.

CORAM : D.G. KARNIK, J

DATED : 23rd April 2007.

P.C.:

1. By this petition, the petitioner challenges the order passed by the Motor Accident Claims Tribunal under section 140 of the Motor Vehicles Act.

2. By the impugned order, the appellant Insurance Company was directed to pay Rs.25,000/- as "No fault liability". Learned counsel for the petitioner submitted that though the insurance policy was issued, the cheque paid by the owner as a premium

had bounced and therefore, insurance company is not liable. That is the matter between insurance company and the owner of the vehicle. The insurance company had issued a policy which is bound under the terms of the policy, qua the stranger. Failure of consideration may be a ground for annulment of the contract between the owner and the insurance company but the contract was annulled and the policy was not lawfully cancelled. The insurance company would therefore, continue to be liable under the terms of the policy and the Motor Vehicles Act to meet its statutory liability.

3. No other point was urged. Hence, Writ Petition is rejected summarily.

(D.G. KARNIK, J)